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RE: Appl. No. 10/617,978; Filed on July 11, 2003

Number of Pages: (including cover page)

3

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT

Appl No.: 10/617,978  
Applicant(s): Herrmann *et al.*  
Filed: July 11, 2003  
Art Unit: 1638  
Examiner: Anne R. Kubelik  
Title: ORALLY ACTIVE PESTICIDAL BIOPEPTIDES

Confirmation No.: 4095

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Docket No.: 035718/260673  
Customer No.: 29122

August 5, 2005

Mail Stop Amendment  
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Alexandria, VA 22313-1450

**STATEMENT ON SUBSTANCE OF INTERVIEW**  
**UNDER 37 C.F.R. §1.133**

This statement is responsive to the Examiner's Interview Summary dated July 27, 2005, and supplemental to the Supplemental Response to Restriction Requirement that was filed in the above-identified application on July 20, 2005. Pursuant to the requirement for Applicants' representative to provide a summary of the substance of the telephonic interview held with Examiner Anne R. Kubelik on July 20, 2005, the following is noted for entry into the record of the above-identified application.

During the July 20, 2005 telephonic interview, Applicants' representative indicated to the Examiner that Applicants wished to submit a supplemental response to the Restriction Requirement, for which an initial response had been filed June 24, 2005. The nature of the supplemental response was discussed with the Examiner. In so doing, Applicants' representative explained that the supplemental response would reflect a provisional election of the nucleotide sequence within SEQ ID NO:17 encoding SEQ ID NO:20, with a request to consider rejoinder of the elected sequence with the nucleotide sequence within SEQ ID NO:14 encoding SEQ ID NO:20. Applicants' representative indicated that a preliminary amendment would be concurrently filed with this supplemental response so that the claims for examination on the merits would reflect provisional election of these sequences encoding SEQ ID NO:20.

Appl No.: 10/617,978

Statement Dated August 3, 2005

Statement Filed in Response to Interview Summary Form of July 27, 2005

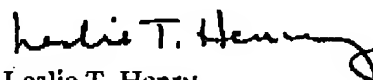
The Examiner indicated that the initial election in the Response to Restriction Requirement filed June 24, 2005 was already being treated as an election of sequences encoding SEQ ID NO:20 in view of Applicants' comments provided therein regarding SEQ ID NOs:14 and 17. The Examiner further noted that a statement to this effect would be entered into the record by way of an Interview Summary, and that Applicants could file the supplemental response along with claim amendments reflecting this subsequent provisional election of nucleotide sequence.

Responsive to this interview, Applicants filed a Supplemental Response to Restriction Requirement and Preliminary Amendment on July 20, 2005, in keeping with the content discussed during the interview, with the expectation that an Interview Summary would be forthcoming from the Examiner. In view of receipt of this Interview Summary, Applicants provide this statement to complete the record with regard to this interview.

Should the Examiner have further questions or comments with respect to examination of this case, it is respectfully requested that the Examiner telephone the undersigned so that further examination of this application can be expedited.

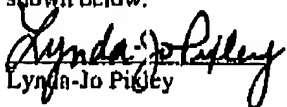

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Leslie T. Henry

Registration No. 45,714

<b>CUSTOMER NO. 29122</b> <b>ALSTON &amp; BIRD LLP</b> Bank of America Plaza 101 South Tryon Street, Suite 4000 Charlotte, NC 28280-4000 Tel Raleigh Office (919) 862-2200 Fax Raleigh Office (919) 862-2260	<b>CERTIFICATION OF FACSIMILE TRANSMISSION</b> I hereby certify that this paper is being facsimile transmitted to the US Patent and Trademark Office at Fax No. (571) 273-8300 on the date shown below.  Lynda-Jo Piley  Date
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